IN THE HIGH COURT O F UTTARAKHAND AT NAINITAL

(Chapter VIII, Rule 32 (2) (b)
Description of Case

Writ Petition No.93 of 2007 (S/B)

Dated of decision: 22nd May, 2007

A.F.R. (Approved for Reporting)

~~Not approved for reporting~~

Date: Initials of Judge

Note**:** Bench Reader will attach this at the top of the first page of the judgment when it is put up before the Judge for signature.

IN THE HIGH COURT OF UTTARKAHDN, AT NAINITAL

Writ Petition No. 93 of 2007 (S/B)

Babu Ram Sharma s/o Sri Bodh Ram Sharma,
R/o 127, Engineers' Enclave, Phase -1,
G.M.S. Road, Dehradun …….. Petitioner

Versus

1. Union of India through its Secretary,
   Ministry of Personnel Public and Pension,
   New Delhi.
2. State Advisory Committee, Lodhi Road,
   New Delhi through its Chariman.
3. State of Uttaranchal (now Uttarakhand) through
   Principal Secretary, Irrigation Department,
   Dehradun.
4. Chief Engineer, Irrigation Department, Dehradun.
5. Executive Engineer, Irrigation Department, Dehradun.
6. State of U.P. through Principal Secretary,
   Irrigation Department, Lucknow. …..… Respondents

Sri. Nagesh Agarwal, Advocate for the petitioner.
Smt. Anjali Bhargava, Standing Counsel (Central Government) for respondent no. 1 & 2.
Sri. Lalit Sharma, Brief Holder for the respondents no. 3 to 5.
Smt. Beena Pande, Standing Counsel (U.P. Government) for respondent no. 6.

JUDMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C.J. (Oral)

Sri. Nagesh Agarwal, Advocate for the petitioner.

Smt. Anjali Bhargava, Standing Counsle (Central Governnment) for respondent no. 1 & 2.

Sri. Lalit Sharma, Brief Holder for the respondents no. 3 to 5.

Smt. Beena Pande, Standing Counsel (U.P. Governnment) for respondent no. 6.

They are heard on admission.

2. Petitioner Babu Ram Sharma has filed this writ petition for the following reliefs:-

> "(a) Issued a writ, order or direction in the nature of certiorari calling for the records and quashing the impugned order dated 11.05.2006 (Annexure- 1) passed by respondent no. 1 so far as related to petitioner and the order dated 17.5.2007 (Annexure No.1 A) passed by the respondent no. 5.
>
> (b) Issue a writ, rule, order or direction in the nature of mandamus commanding and directing the respondent not to interfere in the functioning of petitioner as Assistant Engineer, Lakhwar Bandh Nirman Khand-1, Dakpathar Dehradun pursuant to impugned order dated 11.05.2006.
>
> (c) Issue any order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case.
>
> (d) Award the costs of the petition in favour of the petitioner.

3. The petitioner, in substance, is seeking quashing of the order dated 11.05.2006 (Annexure-1) whereby the petitioner has been finally allocated to the State of U.P. and the order dated 17.05.2007(Annexure 1A) whereby the petitioner has been relieved from the State of Uttaranchal for his joining to the State of Uttar Pradesh.

4. Petitioner Babu Ram Sharma, who is working as Assistant Engineer in the Irrigation Department admittedly opted for the State of Uttar Pradesh before the reorganization of the State in the year 2000. The Central Government vide impugned order dated 11.05.2006 (Annexure -1) has finally allocated the petitioner to the State of Uttar Pradesh. As a consequence thereof, the petitioner stands relieved from the State of Uttaranchal for his joining to the State of Uttar Pradesh vide order dated 17.05.2007(Annexure 1A).

5. Sri Nagesh Agarwal, the learned counsel for the petitioner vehemently argued that the petitioner's case ought to have been considered by the respondent for his mutual transfer from the State of Uttar Pradesh to the State of Uttaranchal as the State of Uttaranchal has no objection to the petitioner's transfer from the State of Uttar Pradesh to the State of Uttaranchal. The learned counsel further submitted that the Central Government has erred in not giving due weight to the petitioner's revised option for the State of Uttaranchal/ Uttarakhand.

6. The petitioner stands finally allocated to the State of Uttar Pradesh by the Central Government in accordance with his option. The petitioner's final allocation to the State of Uttar Pradesh cannot be found fault with merely because his revised option is not accepted by the Central Government.

7. So far as the petitioner's claim for mutual transfer is concerned, we are of the opinion that mere consent of the State of Uttaranchal does not create any right in favour of the petitioner for his transfer from the State of Uttar Pradesh to the State of Uttaranchal. That apart, the petitioner's claim for mutual transfer is not enforceable in the Court of law as it is entirely between the two States to agree or not to agree for the petitioner's mutual transfer and Courts have no role to play in such matters.

8. For the foregoing reasons, we do not find any ground for grant of the relief sought by the petitioner in the writ petition.

9. The writ petition, therefore, is liable to be dismissed and is hereby dismissed summarily.

(J.C.S. Rawat, J.) **(Rajeev Gupta, C.J.)**
22.05.2007 22.05.2007

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